

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

No. CR 05-0324 MMC

Plaintiff,

**ORDER DENYING AS PREMATURE  
AND WITHOUT PREJUDICE  
GOVERNMENT'S EMERGENCY MOTION  
FOR PSYCHIATRIC EVALUATION OF  
DEFENDANT CYRUS PURSUANT TO  
FED. R. CRIM. P. 12.2(C)(1)(B)**

v.

DENNIS CYRUS, JR.,

Defendant

The Court is in receipt of the government's Emergency Motion, filed February 11, 2009, by which the government "moves for an Order permitting an expert hired by the government to evaluate defendant Cyrus pursuant to Fed. R. Crim. P. 12.2(c)(1)(B)" (see Document # 1208 at 2:8-9), in light of defendant's recent filing advising the Court and the government that the defense "may need to amend the existing penalty notice, and to re-file a guilt phase notice of intent to introduce expert evidence on mental condition (see Document # 1190 at 4:13-15).

Because defendant has not sought, let alone obtained, such leave to amend and/or re-file, the government's motion is hereby DENIED as premature and without prejudice.

**IT IS SO ORDERED.**

Dated: February 11, 2009

  
MAXINE M. CHESNEY  
United States District Judge